

How to Talk to the Police

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SUMMARY

- I. Introduction.
- II. HIPAA – The Health Insurance Portability and Accountability Act of 1996.
- III. When you have to call the police urgently.
- IV. When the police call you.
- V. When you report to the police.

I. Introduction.

- A. “Unexpected” similarities between mental health professionals and law enforcement officers.
 1. Each is always on duty.
 2. People may be intimidated or feel anxious or judged by each of them.
 3. People may feel a need to be on good behavior around them.
 4. Parenthetically, clergy fall into this category as well.
- B. Police and mental health clinicians have different jobs to do.
 1. Both are professionals.
 2. Things work best between them when they treat each other as professionals.
- C. Cultivate a working relationship with the police force(s) in your area by setting up meetings in non-urgent situations so that you can each respond better to the other when the need is urgent.

II. HIPAA – The Health Insurance Portability and Accountability Act of 1996.

- A. “PHI” – Protected Health Information.
 1. Individually identifiable information about a person obtained as part of providing health care or services to the person.
 - a. Psychological and medical information.
 - b. Demographic information.
 - c. Financial information.
- B. HIPAA (Federal) and state laws regulate disclosures of PHI.
- C. You should document in some way what you disclose and to whom.

III. When you have to call the police urgently.

- A. Call police when you need help.

- B. Remember that the goal of the police is to maintain safety, and to apprehend criminals (if this is relevant).
 - 1. Police will spend as much time on the case as they need.
 - 2. At the same time, police want to get back on the street as soon as they can and not be tied up unnecessarily.
- C. Before or when police arrive, you should give them the information they **need to know** in order to perform their work competently and safely.
 - 1. Give information about why you called them and what help you need.
 - 2. If you have information about what you think might be helpful to police officers, be sure to offer that.
Examples: likely presence or absence of weapons; “this man’s bark is bigger than his bite”; he tends to get upset if there are too many uniforms around”.
 - 3. You are in charge of the mental health issues, but realize that police will be in charge of safety and control issues.
 - 4. Information about **diagnosis** (in contrast to behavior) may be irrelevant, and it may not fall in the category of “need to know”.
 - 5. Some items of history may be very important, some quite irrelevant.
 - 6. Recent history regarding dangerous behaviors may be very relevant, especially specifics about what is likely to trigger or de-escalate dangerous behavior.
- D. Remember to keep thinking about collaborating **with** police.
 - 1. Treat them as colleagues.
 - 2. Keep them informed about what you want from them.
 - 3. If you want them to wait while you do an evaluation, let them know why and give an estimate of how long it will take.

IV. When the police call you.

- A. They may want help dealing with someone on the street who has an apparent mental health issue.
 - 1. The police may not know what to do with the person.
 - 2. The question may arise as to whether this person would best be handled primarily through the mental health or through the criminal justice system?
Example: Questions of dangerousness to self or others.
 - 3. You may share PHI on a “need to know” basis as it is relevant to your collaboration, and as it allows the police to do their work properly and safely.
 - 4. You should not disclose information beyond what is necessary to deal with the problem at hand.
- B. They may want information about a suspect in a criminal investigation.
 - 1. Determine the urgency of the request.
 - a. You may release PHI that relates to an urgent need to establish or to preserve safety, and collaborate with the police to solve the mutual problem.
Example: Might a suspect be dangerous to self or others when apprehended, or if incarcerated?
Example: Might a person be dangerous if released to the street?

Example: Might a person need mental health treatment or just talking to by police?

- b. You should be very cautious about releasing information that is not urgent without a proper consent to release information or a court order.

Example: Police want to know about diagnosis, treatment history, or other personal information about someone in custody in order to develop their case.

- c. Remember that mental health clinicians and police have different jobs, both of which are important and necessary.
 - i. Mental health clinicians primarily serve their clients (though have a role to serve the community as well) and primarily help people with mental illness.
 - ii. Police maintain safety and investigate crimes, and primarily serve the community and its needs for safety and justice.
- d. Be in a collaborative mode, and remind police that information obtained without proper permission might not be admissible as evidence.

V. When you report to the police.

A. When you have an option to report.

1. Issues with reporting.
 - a. Reporting may serve important community-safety interests.
 - b. Reporting takes some measure of control out of the hands of clinicians.
 - c. Over-reporting can deter people from seeking needed treatment, and hence can be counter to the aim of clinical work.
2. Specific situations that you may report without consent of the client.
 - a. Elder abuse.
 - b. Dangerous drivers (physicians only, and to DOT only, not to police).
 - c. Threats to harm self or public at large.
 - d. Suspected child abuse, when you have not seen the child but have evidence about it.

B. When you are required to report.

1. Suspected child abuse, when you have seen the child.

Wisconsin Statutes:

<http://www.legis.state.wi.us/rsb/Statutes.html>

48.981(2)(a)

(a) Any of the following persons who has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under sub. (2m), report as provided in sub. (3):

48.981(2m)(a)

(a) The purpose of this subsection is to allow children to obtain confidential health care services.

2. Threats to harm others that involve a duty to protect (“Tarasoff issues”, often cited incorrectly as “duty to warn”), which may be satisfied by...
 - a. having police initiate an emergency detention.
 - b. reporting the threat to police.
 - c. warning those threatened.
- C. When clients disclose information about criminal behavior
 1. In general, this is privileged information and is not disclosed.
 2. An exception might be when there is imminent danger.
 3. Get legal consultation if possible before reporting, or have a client get legal counsel.
- D. In all cases, remember to disclose only information that police need to know, and document what is disclosed and why.